

filed

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

STATE OF NORTH DAKOTA EX REL.
WAYNE STENEHJEM,
ATTORNEY GENERAL,

Petitioner,

-VS-

KENNETH JON DECKER; and
TRAVEL TIME INSENTIVES, INC.
dba TRAVEL TIME INCENTIVES

Respondents.

Civil No. 07C2287

ORDER OF APPROVAL

CPAT 070244.001

Pursuant to the authority of this Court provided in N.D.C.C. § 51-15-06.1,

IT IS HEREBY ORDERED that the attached Assurance of Voluntary Compliance
is approved as an assurance of discontinuance as specified in N.D.C.C. § 51-15-06.1.

The Clerk of Court shall receive and file this Assurance of Voluntary Compliance.

Dated this 18th day of October, 2007.

BY THE COURT:

151 Thomas Schneider
Judge of the District Court

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OCT 18 2007
Clerk of Crt. Burleigh Co.

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-vs-

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dba TRAVEL TIME INCENTIVES

Respondents.

Civil No. 07C2287

**ASSURANCE OF
VOLUNTARY COMPLIANCE**

CPAT 070244.001

.....
To each person or entity identified below, hereinafter "Respondents":

Kenneth Jon Decker
2813 Lake Road 360
Grove, OK 74344
and
310 N.W. 10th St.
Oklahoma City, OK 73107
and
132 Highland Drive
Branson, MO 65616-4049

and

Travel Time Insentives, Inc.
dba Travel Time Incentives
1440 State Hwy 248, Q153
Branson, MO 65616
417-231-6738
417-593-1550
417-593-3868
417-336-5778 (fax)

WHEREAS Wayne Stenehjem, Attorney General of the State of North Dakota
(hereinafter "Attorney General"), acts in the public interest pursuant to North Dakota

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Century Code ("N.D.C.C.") chs. 51-04 (commonly referred to as the Transient Merchants Statute), 51-18 (commonly referred to as the Home Solicitation Statute), and 51-15 (commonly referred to as the Consumer Fraud Statute); and

WHEREAS Respondents are engaged in the business of selling merchandise, as those terms are defined in N.D.C.C. § 51-15-01, and consumer goods or services as defined in § 51-18-01, in the State of North Dakota, namely soliciting and selling vacation club memberships in conjunction with, and on behalf of, entities including but not limited to Club Resort Intervals, LLC/Vikki Heise of New Hampshire; and

WHEREAS the Attorney General has determined that in the public interest an investigation should be conducted into the activity of Respondents to ascertain whether violations of chs. 51-04, 51-18 and/or 51-15 have occurred; and

WHEREAS N.D.C.C. ch. 51-04 requires transient merchants to be licensed in accordance with that law before engaging in sales in the state of North Dakota; and

WHEREAS N.D.C.C. ch. 51-18 regulates home solicitation sales and requires, among other things, that sellers provide North Dakota consumers with both oral and written cancellation rights; and

WHEREAS violation of ch. 51-18 is a violation of ch. 51-15; and

WHEREAS N.D.C.C. ch. 51-15 prohibits the act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby and further it is a deceptive act or practice in violation of that chapter for any person to provide assistance or support to any person engaged in

any act or practice in violation of that chapter when the person providing assistance or support knows or consciously avoids knowing that the other person is engaged in an act or practice in violation of that chapter; and

WHEREAS, the Attorney General has received one or more consumer complaints and/or other information indicating Respondents, among other things:

- failed to obtain proper licensing to conduct business in the state as provided by North Dakota law;
- failed to provide North Dakota consumers notices of cancellation as provided by North Dakota law;

and

WHEREAS as a result of this investigation the Attorney General has reason to believe Respondents have violated N.D.C.C. chs. 51-04, 51-18 and 51-15; and

WHEREAS the parties desire to settle the alleged violations, without an admission of liability on the part of Respondents;

NOW THEREFORE it is hereby agreed:

1. This Assurance of Voluntary Compliance shall constitute the statutory assurance of discontinuance as provided in N.D.C.C. § 51-15-06.1. Respondents acknowledge *in personam* jurisdiction in North Dakota. Nothing in this Assurance of Voluntary Compliance is intended to waive any rights or private remedies available to consumers. See also N.D.C.C. § 51-15-09. Respondents are jointly and severally liable for all amounts due, or which may become due, pursuant to this Assurance of Voluntary Compliance.

2. Respondents, as well as any directors, officers, principals, employees, agents, contractors, servants and all other persons in active concert or participation with them, whether directly or indirectly, voluntarily agree to be and are permanently enjoined from engaging in the sale of merchandise in North Dakota, or engaging in any other business activities.

3. Respondents, upon execution of this agreement, will identify (including but not limited to name, address, telephone number, e-mail address and any other contact information) for the Attorney General, and issue refunds to, all North Dakota consumers to whom Respondents have made sales. **The refund checks must be made payable to the individual consumers and sent to the Office of the Attorney General, at the address listed below,** along with the original signature page of this document.

4. Respondents, upon execution of this agreement, will surrender to the Attorney General the originals (and all copies, compilations, summaries or the like) of all North Dakota lead slips they have in their possession, custody or control, and will not use that information to contact or solicit any North Dakota consumers.

5. Respondents agree they will comply with this Assurance of Voluntary Compliance and further acknowledge and agree any violations of this Assurance of Voluntary Compliance shall be punishable as contempt of court pursuant to N.D.C.C. ch. 27-10. Further, Respondents will be subject to all other civil penalties and sanctions provided by law, including attorney fees and costs with respect to past violations of North Dakota law in addition to with respect to any new violations. Respondents agree to pay a civil penalty of at least \$1,000 per violation for any violations of this Assurance of Voluntary Compliance, or any future violations of N.D.C.C. chs. 51-04, 51-18 or 51-

15; provided, however, the Attorney General shall not be precluded from seeking more than \$1,000 per violation, or any other remedies provided in N.D.C.C. ch. 51-15 or other North Dakota law. Respondents agree that in the event of violation of this Assurance of Voluntary Compliance, the Attorney General may pursue all claims and complaints – past, present and future – against Respondents as well as retain any payments already made.

If Respondents are adjudged in contempt of court for violations of this Assurance of Voluntary Compliance, adjudged in violation of this Assurance of Voluntary Compliance or adjudged in violation of N.D.C.C. chs. 51-04, 51-18 and/or 51-15, Respondents shall also be responsible for payment to the Attorney General for reasonable investigation costs, expenses and attorney fees.

6. Upon execution of this agreement, Respondents shall make a payment to the Attorney General in the sum of \$1,000 dollars in lieu of civil penalties, investigation costs and attorney fees. Payment shall be the form of a certified check or money order payable to **Office of Attorney General – North Dakota**, and delivered to:

Consumer Protection
& Antitrust Division
Office of Attorney General
4205 State Street
Bismarck, ND 58503-0623
Attn: JPThomas

7. In the event of a breach of this Assurance of Voluntary Compliance, the Attorney General may, without further notice to Respondents, make application to a State of North Dakota District Court to have all amounts still owing under the Assurance of Voluntary Compliance entered as a formal judgment so it may be filed on the judgment roll and docketed pursuant to North Dakota law. See N.D.C.C. §§ 28-20-11, -

12 and -13. Respondents agree that an Affidavit of Non-Compliance of the Office of Attorney General shall be *prima facie* evidence of each violation of this Assurance of Voluntary Compliance.

8. Respondents represent each signer below is competent and fully authorized to act, whether individually or in a representative capacity. Respondents acknowledge they have been provided the opportunity to review this Assurance of Voluntary Compliance with an attorney, understand the implications and obligations imposed by it and have freely, willingly and knowingly entered into this Assurance of Voluntary Compliance rather than contest the allegations on the merits. Respondents further acknowledge and agree this Assurance of Voluntary Compliance may be approved by and filed with the State of North Dakota District Court without any further notice or hearing. Signatures transmitted electronically or via facsimile shall be deemed the equivalent of original signatures; this document may be executed in counterparts, with each counterpart deemed an original.

KENNETH JON DECKER


Individually

STATE OF _____)
COUNTY OF _____) ss

Subscribed and sworn to before me this
_____ day of October, 2007.

Notary Public

TRAVEL TIME INSENTIVES, INC.

dba TRAVEL TIME INCENTIVES

(including all "doing business as" names, formal corporate names, fictitious names of any kind or any variations of the same)

By:

Ken Decker

Ken Decker

(print name)

Owner

(Title)

STATE OF _____)

COUNTY OF _____)

ss

Subscribed and sworn to before me this
_____ day of October, 2007.

Notary Public

This Assurance of Voluntary Compliance is hereby received and accepted.

Dated this 17th day of October, 2007.

STATE OF NORTH DAKOTA

Wayne Stenehjem

Attorney General

By:


James Patrick Thomas

ID No. 06014

Assistant Attorney General

Consumer Protection and

Antitrust Division

Office of Attorney General

4205 State Street

PO Box 1054

Bismarck, ND 58502-1054

(701) 328-5570

Attorneys for Petitioner